

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of

Numbering Resource Optimization

CC Docket No. 99-200

To: The Commission

JOINT REPLY COMMENTS OF THE
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION
AND THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Personal Communications Industry Association ("PCIA")¹ and the Competitive Telecommunications Association ("CompTel")² hereby submit Joint Reply Comments responding to those parties that commented upon our associations' Petition for Reconsideration, filed with the Federal Communications Commission ("FCC" or "Commission") on July 12, 2001. PCIA and CompTel had requested that the

¹ PCIA is a wireless communications association dedicated to advancing seamless global communications through its strategic marketing, public policy expertise, events and educational programs. PCIA members include a broad base of interdependent mobile convergence players. PCIA is devoted to the rapid, efficient, and cost effective deployment of consumer-driven mobile products and services around the world. PCIA's membership alliances include the Personal Communications Service Alliance, the Mobile Wireless Communications Alliance, the Paging and Messaging Alliance, the Private System Users Alliance, and the Site Owners and Managers Alliance.

² CompTel is the premier industry association representing competitive telecommunications providers and their suppliers in the United States. CompTel's member companies include the nation's leading providers of competitive local exchange services and span the full range of entry strategies and options. It is CompTel's fundamental policy mandate to see that competitive opportunity is maximized for *all* its members, both today and in the future.

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Commission reconsider its decision (“*Reporting Notice*”)³ to require the submission of data concerning 500/900 Numbering Plan Areas (“NPAs”) without providing notice and opportunity for comment or obtaining the approval of the Office of Management and Budget (“OMB”) for the modifications to FCC Form 502 that the new requirements necessitated.

The PCIA/CompTel Petition noted that the *Numbering Order* made no mention of non-geographic NPAs such as the 500/900, nor did the NPRM upon which the *Numbering Order*⁴ is based. The Petition noted a review of the comments received relating to the *Numbering Order* revealed that none of the parties to the proceeding commented on reporting requirements for non-geographic NPAs, or even mentioned non-geographic NPAs at all. The Petition noted that the first time the issue of mandatory reporting requirements for non-geographic NPAs is indeed mentioned is in the *Reporting Notice* where the Commission extends the scope of the *Numbering Order* to include the 500 and 900 non-geographic NPAs.

PCIA and CompTel are gratified to note that the comments filed responsive to the Petition demonstrate that the entire telecommunications industry is in agreement that none of the parties participating in this proceeding had notice that non-geographic NPAs were covered by the *Numbering Order*. This proves that the Commission promulgated a

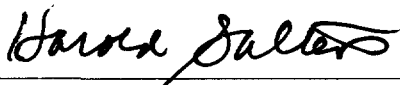
³ *Numbering Resource Optimization*, CC Docket No. 99-200, *Public Notice*, DA 01-1409 (rel. June 11, 2001) (“*Reporting Notice*”), which was published in the Federal Register on Friday, June 15, 2001, Vol. 66, No. 116 at 32623.

⁴ Report and Order and Further Notice of Proposed Rule Making released on March 31, 2000.

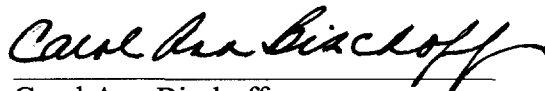
new rule without proper notice or comment, in violation of section 553(b) of the Administrative Procedure Act.⁵

In light of the overwhelming support for the Petition, it is crucial for the Commission to rescind the *Reporting Notice* immediately, clarify that its existing rules apply only to geographic NPAs, and issue an NPRM to adopt rules that are designed specifically to address the unique issues facing non-geographic NPAs like the 500 and 900 NPAs. The FCC should also rescind its instructions to NANPA to withhold numbering resources from carriers for non-compliance with the subject invalid reporting requirements. Following appropriate notice and comment proceedings, if necessary, the FCC can then adopt an appropriate reporting form for the 500 and 900 NPAs, as well as appropriate penalties for failure to comply with these requirements.

Respectfully submitted,



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⁵ Indeed, the Supreme Court has held that failure to receive even one comment, positive or negative, indicates that notice was inadequate. *See Shell Oil Co. v. EPA*, 950 F.2d 741, 761 (D.C. Cir. 1991) (holding that the EPA's "fail[ure] to identify even one comment recommending (or opposing)" its proposal "reinforce[s] our conclusion that notice was inadequate.").